

172732-1 : n : 12/18/2015 : KMS / th LRS2015-3426

SYNOPSIS: Under existing law, the Students First Act of 2011 provides a process for public K-12 school teachers to attain tenure.

This bill would create the Rewarding Advancement in Instruction and Student Excellence (RAISE) Act of 2016.

This bill would provide a procedure for observing and evaluating teachers, principals, and assistant principals on performance and student achievement and would provide compensation based on those factors.

This bill would increase the number of years of service required to attain tenured status pursuant to the Students First Act of 2011 under the same governing board or at the same two-year institution of higher education from three to five consecutive years or from six to 10 consecutive semesters, respectively.

This bill would create the Alabama Longitudinal Data System Center and the LDS Center Commission.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to public education; to create the Rewarding Advancement in Instruction and Student Excellence (RAISE) Act of 2016; to provide a procedure for observing and evaluating teachers, principals, and assistant principals on

performance and student achievement and would provide compensation based on those factors; to amend Sections 16-24C-4 and 44-1-74, Code of Alabama 1975, to increase the number of years of service required to attain tenured status pursuant to the Students First Act of 2011 from three to five consecutive years or six to 10 consecutive semesters, respectively; to create the Alabama Longitudinal Data System Center and the LDS Center Commission; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Rewarding Advancement in Instruction and Student Excellence (RAISE) Act of 2016.

Section 2. For the purposes of this act, the following terms shall have the following meanings:

(1) ADJUSTMENT. An addition to the base salary schedule that is not a bonus or supplement and becomes part of the permanent base salary of the teacher as calculated following the annual evaluation.

(2) BASE SALARY. The annual compensation of a teacher, which includes any adjustments earned by the teacher, but does not include any supplements earned in the current or prior years.

(3) BELOW EXPECTATIONS. A teacher who has received a summative performance evaluation rating that falls within the second lowest tier of the evaluation system of the employer.

(4) CHIEF EXECUTIVE OFFICER. The chief administrative and executive officer of an entity, institution, agency, or political subdivision of the state that is subject to this act and includes, without limitation, superintendents of city or county boards of education. The term includes persons serving in such a capacity on an acting or interim basis under lawful appointment or by operation of law.

(5) DEPARTMENT. The State Department of Education.

(6) ELIGIBLE ADJUSTMENT. The total amount of additional salary that a teacher may receive in any school year.

(7) EMPLOYEE. Unless otherwise specified, and as appropriate to the context, the term includes a teacher whose employment is subject to this act.

(8) EMPLOYER. The entity, institution, agency, or political subdivision of the state by which a teacher who is subject to this act is employed. Employers subject to this act include all city and county boards of education, all educational institutions under the control of the Department of Youth Services, and the Alabama Institute for Deaf and Blind.

(9) EXCEEDS EXPECTATIONS. A teacher who has received a summative performance evaluation rating that falls within the second highest tier of the evaluation system of the employer.

(10) GOVERNING BOARD. The body of elected or appointed officials that is granted authority by law, regulation, or policy to make employment decisions on behalf of the employer. If final decision-making authority with respect to employment decisions is conferred by law, regulation, or duly adopted policy on an official, administrator, or organizational unit other than a separate governing board, the decision or action of such official, administrator, or organizational unit, is that of the governing board for purposes of this act, and no additional approval of such decision or action shall be required. Under such circumstances, the official administrator, president, or organizational unit shall assume and exercise the duties of the governing board established by this act. For purposes of this act, the State Board of Education shall not be deemed to be or authorized to function as the employer or the governing board of an employer covered by this act.

(12) PERFORMANCE SALARY SCHEDULE. The salary schedule or schedules adopted by a governing board pursuant to this act to compensate all teachers initially hired after May 1, 2017, and those teachers hired before May 1, 2017, who opt to be compensated under a performance salary schedule on or before May 1, 2019.

(13) PROFESSIONAL EDUCATOR'S CERTIFICATE. A certificate or license, by whatever name, designation, or subclassification known or identified, issued by the State Department of Education, or recognized under an approved interstate reciprocity program, and that must be maintained by

the teacher in order to be employed as a teacher in the county and city schools of this state. A professional educator's certificate does not include provisional, alternative, or emergency certificates, or certificates or licenses that are issued to instructional aides or assistants, to substitute teachers, or to business, technical, or operational, or other employees whose job duties do not require or entail the instruction of students or the regular supervision of or interaction with employees with such job duties.

(14) SATISFIES EXPECTATIONS. A teacher who has received a summative performance evaluation rating that falls within the middle tier of the evaluation system of the employer.

(15) SCHOOL YEAR. The period beginning with the first day of the annual school term and ending with the last day of the annual school term on which classroom instructors are required to report for duty, as established by the governing board.

(16) SIGNIFICANTLY BELOW EXPECTATIONS. A teacher who has received a summative performance evaluation rating that falls within the lowest tier of the evaluation system of the employer.

(17) SIGNIFICANTLY EXCEED EXPECTATIONS. A teacher who has received a summative performance evaluation rating that falls within the highest or top tier of the evaluation system of the employer.

(18) STUDENT ACHIEVEMENT GROWTH. The change in achievement for an individual student between two or more points in time, based on standards-based measures that are

valid, rigorous, and comparable across classrooms of similar content and levels.

(19) STUDENT GROWTH MODEL. A statistical growth model used to isolate the effect and impact of a teacher on student learning, controlling for preexisting characteristics of a student including, but not limited to, prior achievement.

(20) SUPPLEMENT. An annual addition to a base salary. A supplement does not become part of the continuing base salary of a teacher.

(21) SUPPORT PERSONNEL. Full-time maids, custodians, adult bus drivers, lunchroom or cafeteria workers, secretaries, clerks, clerical assistants, maintenance workers, or other noncertificated employees.

(22) TEACHER. All employees of entities that are covered by this act who are required by law, regulation, or employer policy to maintain a professional educator's certificate issued by the State Department of Education and who are employed by a city or county board of education, the Alabama Institute for Deaf and Blind, or educational and correctional institutions under the control of the Department of Youth Services. The term also includes principals who had attained tenure under prior law, but who have not elected to become contract principals or assistant principals under subsection (h) of Section 16-24B-3, Code of Alabama 1975. The term includes Teach for America, and other similarly employed teachers, but does not include a substitute teacher, an employer's chief executive officer, chief school financial officer, or a principal who is employed as or who has elected

to become a contract principal under subsection (h) of Section 16-24B-3, Code of Alabama 1975, whether or not certification is required for those positions by law or policy. A contract principal may be evaluated pursuant to this act if the evaluation is not otherwise prohibited by the terms of his or her contract.

(23) TENURE. Continuing service status granted to teachers under the Students First Act of 2011.

Section 3. Beginning with the 2017-2018 school year, every teacher employed by a governing board shall be formally evaluated annually pursuant to this act.

Section 4. (a) The elements of evaluation and standards for effectiveness for teachers providing classroom instruction at the K-12 level shall be defined by the department pursuant to rules promulgated for such purpose.

(b) The rules, at a minimum, shall require evaluations that contain all of the following elements:

(1) At least two observations per school year conducted by trained evaluators. One observation shall be conducted by the school principal, assistant principal, or his or her designee. An observation shall be aligned to a clear, consistent rubric provided to the teacher before the beginning of the school year. An observation may be announced or unannounced, and shall be of sufficient duration to provide meaningful data. At least one observation shall last the duration of one complete classroom lesson. All observations shall be conducted by evaluators who have a full understanding of the evaluation system and its expectations for teachers and evaluators. No person shall be responsible for the evaluation

of personnel unless the person has received education and training in evaluation skills approved by the department that enable him or her to make fair, professional, and credible evaluations of the personnel whom he or she is responsible for evaluating.

(2) Multiple fair, transparent, timely, rigorous, and valid elements reflecting best practices of teaching and learning for engaging and motivating students to excel academically.

(3) Methods of feedback from evaluators that allow a teacher meaningful opportunity to improve his or her effectiveness.

(4) Acknowledgement that not all teachers require the same amount of supervision and evaluation.

(c) Total year end teacher evaluation scores shall be based on student growth, parent and student surveys, and additional measures of performance as follows:

(1) Measure of student academic growth shall be as follows:

a. For teachers of any state assessed subject areas. For the first two years after the effective date of this act, and based on the availability of individual student achievement growth data, 30 percent of teacher evaluations shall be based on evidence of growth in student achievement using a student growth model as determined by the department for grade levels and subjects for which student state assessment data is available. For teachers of state assessed subject areas, 35 percent of teacher evaluations shall be

based on evidence of growth in student achievement for the third and fourth years after the effective date of this act and, for the fifth year and thereafter, 40 percent of teacher evaluations shall be based on evidence of growth in student achievement.

b. For teachers of nonstate assessed subject areas. For the first two years after the effective date of this act, and based on the availability of individual student achievement growth data, 30 percent of teacher evaluations shall be based on evidence of growth in student achievement. For grade levels and subjects for which student standardized assessment data is not available and for teachers for whom student standardized assessment data is not available, the department shall establish a list of preapproved options for governing boards to utilize to measure student growth. The measures decided upon by the governing board shall be used as evidence of growth in student achievement and shall comprise the applicable percentage of the total evaluation. The governing board may select any number of measures from the list of preapproved options to comprise the student academic growth component of nonstate assessed subject area teacher evaluations. For teachers of nonstate assessed subject areas, 35 percent of teacher evaluations shall be based on evidence of growth in student achievement for the third and fourth years after the effective date of this act and, for the fifth year and thereafter, 45 percent of teacher evaluations shall be based on evidence of growth in student achievement.

c. For purposes of calculating the student growth model, the department shall use student performance on the ACT

Aspire examination, if applicable, or a successor examination adopted and used by the department to measure student academic performance and achievement.

(2) Fifteen percent of the total year end teacher evaluation score shall be comprised of equally weighted parent and student surveys.

(3) Additional measures of performance, comprising 55 percent of total year end teacher evaluation score in years one and two after the effective date of this act, 50 percent in years three and four, and 45 percent in years five and thereafter, shall be included in the evaluation, and all measures shall be correlated with impacts on student achievement results or, for a teacher in the first two years of his or her career, best practices of teaching and learning for engaging and motivating students to excel academically. The measures shall include, but not be limited to, multiple classroom observations. Classroom observations shall comprise 45 percent of the additional measures portion of the total year end teacher evaluation score.

(d) Individual schools demonstrating incremental student growth shall be eligible to participate in a rewards to school initiative, with funds appropriated by the Legislature going to the schools according to rules adopted by the department.

Section 5. (a) The elements of evaluation and standards for effectiveness for teachers serving as principals and assistant principals shall be defined by the department pursuant to rules promulgated for such purpose.

(b) The rules, at a minimum, shall require evaluations that contain all of the following elements:

(1) Multiple fair, transparent, timely, rigorous, and valid standards of quality leadership and performance as determined by the department.

a. These may include, but not be limited to:

1. Standards for demonstrating all of the following:

(i) Strategic and managerial leadership.

(ii) Instructional leadership.

(iii) School cultural and equity leadership.

(iv) External development leadership related to family and community outreach.

2. Achievement and academic growth for students enrolled in the applicable school.

3. The number and percentage of certified personnel in the applicable school who are rated in each category of effectiveness listed in subsection (b) of Section 6.

(2) Acknowledgement that not all principals and assistant principals require the same amount of supervision and evaluation.

(3) For the first two years after the effective date of this act, 30 percent of principal and assistant principal evaluations shall be based on evidence of growth in student achievement using a student growth model as determined by the department for grade levels and subjects for which student state assessment data is available. For the third and fourth years of principal and assistant principal evaluations after the effective date of this act 35 percent of evaluations shall be based on evidence of growth in student achievement and, for

the fifth year and thereafter, 45 percent of teacher evaluations shall be based on evidence of growth in student achievement.

Section 6. (a) Each teacher shall be given written notice before the beginning of the school year of the measures and any specific indicators that may be used to evaluate his or her performance.

(b) Based upon their evaluations and other performance measures, each teacher shall be rated on his or her effectiveness. The levels of effectiveness, which shall be defined by rule of the department, are as follows:

- (1) Significantly below expectations.
- (2) Below expectations.
- (3) Satisfies expectations.
- (4) Exceeds expectations.
- (5) Significantly exceeds expectations.

(c) Pending the promulgation of rules by the department defining each level of effectiveness, the applicable governing board may establish and implement temporary definitions for each level.

(d) Forty-five percent of each level of effectiveness shall be based on the percentage of students who achieve appropriate growth based on expectations derived from individual student achievement data. If student growth and assessment data are available for a teacher for at least three consecutive school years, the annual year-end evaluation shall be based on the student growth and assessment data for the most recent three consecutive school year periods. If student

growth and assessment data are not available for a teacher for at least three consecutive school years, the annual year-end evaluation shall be based on all student growth and assessment data available for the teacher.

Section 7. (a) A governing board shall base decisions regarding significant differentiation in pay, retention, promotion, dismissals, and other staffing decisions, including transfers, placements, and preferences in the event of reductions in force, primarily on evaluation results.

(1) Evaluation results shall also be used to provide high quality, job-embedded, and ongoing mentoring, support, and professional development for teachers, as appropriate, aligned to the needs of the teacher as identified in his or her annual evaluation.

(2) Differentiation in pay for teachers may also be based on teaching high demand subject areas, hard-to-staff assignments, and effective collaboration among teachers.

(b) Except as otherwise provided in subsection (b) of Section 11, a governing board may not use seniority, degrees, or credentials as a basis for determining pay or making the retention, promotion, dismissal, and staffing decisions described in this section. Nothing in this subsection shall prohibit cost-of-living adjustments tied in whole or in part to prior compensation levels.

Section 8. (a) If the governing board determines that a reduction in force is necessary, the decision to suspend or terminate the employment of a teacher or principal shall be based solely on the overall performance of the

teacher or principal on the annual evaluation system adopted by the governing board, pursuant to this act. When determining the order in which to reduce the existing workforce, a governing board shall first suspend or terminate the employment of a teacher or principal whose overall performance has been graded as:

(1) Significantly below expectations, before dismissing a teacher or principal whose overall performance has been determined to be below expectations, satisfies expectations, effective, or highly effective.

(2) Below expectations, before a teacher or principal whose overall performance has been determined to be satisfies expectations, exceeds expectations, or significantly exceeds expectations.

(3) Satisfies expectations, before a teacher or principal whose overall performance has been determined to be exceeds expectations or significantly exceeds expectations.

(4) Effective, before a teacher or principal whose overall performance has been determined to be significantly exceeds expectations.

(b)(1) If a governing board determines that a further reduction in force is required, the governing board may suspend or terminate the employment of a teacher or principal whose employment record includes any of the following:

a. A criminal record that resulted in an earlier suspension of the teacher or principal.

b. Uncontested or fully adjudicated disciplinary action that resulted in the suspension of the teacher or principal.

(2) Before suspending or terminating the employment of a teacher or principal whose employment record does not include a record or disciplinary action pursuant to paragraph a. or b. of subdivision (1), the governing board shall first suspend or terminate the employment of those teachers or principals who do have a prior disciplinary action pursuant to paragraph a. or b. of subdivision (1), in the order of the severity of the disciplinary action.

(c)(1) If the governing board determines that additional reductions in force are necessary, the decision to suspend or terminate the employment of a teacher or principal shall be based on all of the following factors:

a. Whether the teacher or principal is employed in a position that is difficult to fill within the school system.

b. Whether the teacher or principal has earned National Board Certification.

c. The licensure held by the teacher or principal.

d. The type of degree attained by the teacher or principal and whether the degree is in a subject area that is related to his or her position.

(2) If, after consideration of the factors listed in subdivision (1), two or more teachers or principals are similarly situated, the governing board may give preference to the teacher or principal with greater seniority.

(3) A governing board may waive the requirements of this subsection for any teacher employed to teach a subject

area that is experiencing a shortage of teachers, including, but not limited to, the subjects of science, technology, engineering, mathematics, special education, and English as a second language.

Section 9. Before the beginning of the 2017-18 school year, the department shall do all of the following:

(1) Develop, implement, and publicly disseminate a statewide student growth model for determining student growth on assessments for purposes of teacher evaluations in order to standardize student academic growth measures and ensure teachers are measured according to the value they add to student growth. The department shall work in conjunction with a third party vendor, selected by the department pursuant to a request for proposal process established by rule of the department, that specializes in the development and implementation of student growth models for purposes of complying with this section. Nothing in this subdivision shall be construed to usurp or diminish the authority of the department in administering and implementing this act.

(2) Provide technical assistance in developing and implementing an evaluation system to governing boards, including providing or helping to develop training for evaluators and a resource bank that identifies assessments, processes, tools, and policies that a governing board may use to develop an evaluation system. The resource bank shall include resources that are appropriate to governing boards of different sizes, demographics, and locations and shall be

updated periodically to reflect new research and experience in implementing this act.

(3) Develop a default evaluation system as follows:

a. The default evaluation system shall be used by all governing boards. A governing board may opt out of the default system, if the governing board chooses to develop its own system. If a governing board chooses to opt out, the model developed by the governing board shall satisfy the requirements of this act and shall be approved by the department.

b. A governing board that uses the state default evaluation system may revise or adapt policies or processes in the system to the extent consistent with this act and rules promulgated by the department.

(4) Review and approve student assessments to ensure alignment with state standards before they may be used for the purpose of evaluating teachers and provide or approve evaluation forms to be used in evaluating teachers.

(5) Include in its longitudinal data system links between individual teacher evaluations and human capital data; data on the number of teachers rated at each performance level by school; data for teacher preparation programs in the state; and achievement data for individual students. The department shall regularly report this data on the department website.

(6) Monitor evaluation systems established and implemented by governing boards to ensure that evaluation outcomes are consistent in the aggregate with student achievement results at the school level and school district level, as applicable; and that the evaluation system satisfies

the requirements of this act and rules promulgated by the department; and direct any appropriate corrective actions.

Section 10. (a) Before the beginning of the 2017-18 school year, the Board of Trustees of the Alabama Community College System shall do all of the following:

(1) Issue regulations governing the development and implementation of evaluation systems. The regulations shall include, but not be limited to, all of the following:

a. Processes and requirements to determine the teacher of record for purposes of assigning student achievement scores to a teacher in evaluating the performance of the teacher. In considering this definition, the board of trustees shall consider all of the following: The minimum threshold of instruction time for a subject or course that qualifies under this categorization; the unit of measure for quantifying instruction time, days, or percentage of time; team teaching, or multiple teachers tracked as instructing a student for a subject or course; and the implications of virtual learning environments with this categorization.

b. Processes to verify teachers, their students, and their assignments.

c. Standards for rating levels to be assigned to teachers.

d. Processes and requirements for student growth methods to be used in measuring student achievement growth for purposes of teacher evaluation.

e. The observation tool or tools to be used when conducting teacher evaluations.

f. Minimum training requirements for evaluators.

(2) Develop, implement, and publicly disseminate a statewide student growth model for determining student growth on assessments for purposes of teacher evaluations in order to standardize student academic growth measures and ensure teachers are measured according to the value they add to student growth. The board of trustees shall work in conjunction with a third party vendor, selected by the board of trustees pursuant to a request for proposal process established by rule of the board of trustees, that specializes in the development and implementation of student growth models for purposes of complying with this section. Nothing in this subdivision shall be construed to usurp or diminish the authority of the board of trustees or the Alabama Community College System in administering and implementing this act.

(3) Provide technical assistance in developing and implementing an evaluation system to governing boards, including providing or helping to develop training for evaluators and a resource bank that identifies assessments, processes, tools, and policies that a governing board may use to develop an evaluation system. The resource bank shall include resources that are appropriate to governing boards of different sizes, demographics, and locations and shall be updated periodically to reflect new research and experience in implementing this act.

(4) Develop a default evaluation system as follows:

a. The default evaluation system shall be used by all governing boards. A governing board may opt out of the default system, if the governing board chooses to develop its

own system. If a governing board chooses to opt out, the model developed by the governing board shall satisfy the requirements of this act and shall be approved by the board of trustees.

b. A governing board that uses the default evaluation system may revise or adapt policies or processes in the system to the extent consistent with this act and rules promulgated by the board of trustees.

(5) Review and approve student assessments to ensure alignment with state standards before they may be used for the purpose of evaluating teachers and provide or approve evaluation forms to be used in evaluating teachers.

(6) Include in its longitudinal data system links between individual teacher evaluations and human capital data; data on the number of teachers rated at each performance level by institution; data for teacher preparation programs in the state; and achievement data for individual students. The system shall regularly report this data on the Alabama Community College System website.

(7) Monitor evaluation systems established and implemented by governing boards to ensure that evaluation outcomes are consistent in the aggregate with student achievement results at the institutional level; and that the evaluation system satisfies the requirements of this act and rules promulgated by the board of trustees; and direct any appropriate corrective actions.

Section 11. The governing board shall do all of the following:

(1) Ensure that teachers are offered professional development to continually improve instruction and student achievement. Professional development shall be targeted for the needs of each teacher pursuant to his or her professional growth plan, observations, and conferences.

(2) Use the default evaluation system unless the governing board opts out and develops its own evaluation system. The opt out evaluation system shall meet or exceed the criteria provided by this act and shall be approved by the department.

(3) Collect and publicly report data via its website on the number of teachers at each effectiveness level by school.

(4) Monitor evaluation system implementation at the school level to ensure that evaluation outcomes are consistent in the aggregate with student achievement results at the school level or school district level, as applicable; monitor that the evaluation system satisfies the requirements of this act, whether or not the evaluation system utilized by the governing board is the opt out evaluation system or the default evaluation system; implement rules promulgated by the department; and direct any appropriate corrective action.

Section 12. (a) Grandfathered salary schedule.

(1) Within 120 days after the effective date of this act, all governing boards shall adopt a salary schedule or salary schedules to be used as the basis for paying all teachers hired before May 1, 2017.

(2) Grandfathered salary schedules shall be based on salary schedules in effect for the then current school year

and may include no more than a five percent cost-of-living adjustment.

(3) A teacher hired before May 1, 2017, regardless of tenured status, may opt into the performance salary schedule established by the governing board. A teacher hired before May 1, 2017, who has attained tenured status on or before that date and who opts into the performance salary schedule established by the governing board, shall forfeit all rights and protections associated with tenured status under the Students First Act of 2011. A teacher hired before May 1, 2017, who has attained tenured status on or before that date and who opts into the performance salary schedule established by the governing board, may not opt into the performance salary schedule after May 1, 2019, unless he or she first loses tenured status under the Students First Act of 2011.

(4) Teachers hired before May 1, 2017, who have not attained tenured status on or before that date, and who opt into the performance salary schedule established by the governing board, forfeit the opportunity to attain tenured status pursuant to the Students First Act of 2011.

(5) No salary adjustment in the grandfathered schedule may exceed the salary adjustments offered in the performance salary schedule.

(6) Any employee who opts into the performance salary schedule may not return to the grandfathered salary schedule.

(b) A governing board may only use advanced degrees held in the area of certification of a teacher for the purpose

of establishing the base salary of the teacher hired on or after May 1, 2017. All other subsequent pay increases shall be based on the criteria established in this act.

(c) A governing board may not use the length of service or tenure of any teacher hired on or after May 1, 2017, for the purposes of establishing the base salary of the teacher or making any salary adjustments or supplements.

Section 13. (a) Commencing on May 1, 2017, a nontenured teacher who is new to a school district, returning to a school district after a break in service without an authorized leave of absence, or hired for the first time to a position in a school or school district in the capacity of teacher shall choose to be compensated according to the Students First Act of 2011, as amended by this act, or pursuant to a performance salary schedule. The choice shall be acknowledged by the signature of the teacher, on a form provided by the governing board for that purpose, on or before the first day of employment. The form shall be maintained by the governing board during the entire period of employment of the teacher by the employing governing board. During the course of employment under the jurisdiction of a local governing board, a teacher who initially chooses to be compensated according to the Students First Act of 2011, may elect once, in writing, to be compensated instead pursuant to a performance salary schedule.

(b) A teacher who is hired for the first time on or after May 1, 2017, who chooses to be compensated according to the Students First Act of 2011, and obtains tenure under that act, shall have tenure revoked upon receiving two consecutive

significantly below expectations performance ratings. A teacher who has had tenure revoked pursuant to this subsection, thereafter, may begin to accumulate tenure again pursuant to the Students First Act of 2011.

(c) A teacher may not attain tenure under this section unless he or she has been employed for the minimum number of years as required by law and earned an average rating of 3.0 or higher.

(d) By May 1, 2017, the governing board shall adopt a performance salary schedule that does all of the following:

(1) Pays first year teachers two thousand five hundred dollars (\$2,500) more than the lowest paid first year teacher on the State Minimum Salary Schedule, as determined by the State Superintendent of Education.

(2) Provides annual salary adjustments and supplements for teachers rated exceeds expectations or significantly exceeds expectations.

(3) Permits compensation increases based on National Board Certification.

(e) In addition to the requirements established in this section, a base salary shall be established as follows:

(1) The base salary for a teacher who opts into the performance salary schedule shall be the salary paid in the prior year, and may include a cost-of-living adjustment of no more than five percent.

(2) The base salary under the performance salary schedule for teachers shall be recalculated each year to

include the salary of the previous year plus any salary adjustments earned by the teacher.

(3) Each governing board shall establish a maximum base salary for teachers that may not be exceeded. Once an employee reaches the maximum base salary, he or she is no longer eligible for additional salary adjustments, but may receive supplements as determined by the governing board. A governing board may recalculate a maximum base salary each school year, as needed.

(f) Salary adjustments shall be established as follows:

(1) Each governing board shall provide annual salary adjustments for each teacher that receives a summative performance evaluation rating of exceeds expectations or significantly exceeds expectations.

(2) The annual eligible salary adjustment for a teacher under the performance salary schedule shall be greater than the highest annual salary increase available to a teacher of the same classification through the grandfathered salary schedule adopted by the governing board.

(3) The total amount available for the salary adjustment for a teacher shall be no more than 10 percent of the lowest base salary of the grandfathered pay scale.

(4) In no instance shall the total amount available for a salary adjustment for a teacher of state assessed subject areas exceed the total amount available for a salary adjustment for a teacher in nonstate assessed subject areas.

(g) In addition to the salary adjustments, each governing board shall provide for salary supplements to a

teacher receiving a summative performance evaluation rating of exceeds expectations or significantly exceeds expectations, for activities that include, but are not limited to, any of the following:

(1) Assignment to a Title I eligible school.

(2) Assignment to a school in restructuring or reconstitution status as determined and reported by the Department of Education, or a school receiving a D or F rating per Section 16-6C-2, Code of Alabama 1975, with the requirement that the supplement remain in force for at least two years after improved performance in that school.

(3) Certification and teaching in grades, subjects, or classes with critical shortages as determined by the governing board or chief executive officer.

(4) Assignment to the teacher of additional academic or leadership responsibilities, subject to approval by the chief executive officer.

(h) In no instance may a teacher who receives a summative performance evaluation rating of below expectations or significantly below expectations receive an annual salary adjustment or salary supplement.

(i) Any teacher who receives a summative performance evaluation rating of significantly below expectations for his or her annual evaluation shall be provided a professional development reimbursement for the year after the evaluation.

(1) Each teacher shall pursue professional development that specifically aligns with the recommendations provided in his or her annual evaluation.

(2) Each teacher who receives a summative performance evaluation rating of significantly below expectations shall receive reimbursement from the governing board for the cost of the professional development, not to exceed one thousand dollars (\$1,000), with submitted evidence of successful completion.

(j) If budget constraints in any given year limit the ability of a governing board to completely fund all adopted salary schedules, the performance salary schedule may not be reduced on the basis of total cost or the value of individual awards in a manner that is proportionally greater than reductions to any other salary schedules adopted by the governing board.

(k) A governing board may provide a cost-of-living salary adjustment to a base salary if the adjustment satisfies all of the following:

(1) Is equivalent to less than five percent of the annual salary for teachers.

(2) Does not exceed 25 percent of the overall annual eligible salary adjustment available to teachers.

(1) A governing board shall ensure that all salary adjustments made pursuant to the performance salary schedule are included in the definition of pensionable earnings or compensation, or both.

(m) The department shall establish a minimum salary schedule for the performance salary schedule.

(n) The Legislature shall provide for an annual appropriation by separate line items in the Education Trust Fund Appropriations bill for the Alabama Longitudinal Data

System and the payment of teachers that are compensated pursuant to a performance salary schedule pursuant to this act. This amount shall be an estimate and any funds remaining after the required payments are made shall be used for components funded out of the Foundation Program Fund.

(o) The compensation provided by the State Minimum Salary Schedule and performance salary schedule pursuant to this act shall not restrict a governing board from providing additional compensation not otherwise prohibited by this act.

Section 14. The employment of a teacher may be terminated at any time because of a justifiable decrease in the number of positions or for incompetency, insubordination, neglect of duty, immorality, failure to perform duties in a satisfactory manner, or other good and just cause, subject to the rights provided by rule of the department. A decision to terminate the employment of a teacher shall not be made for political or personal reasons.

Section 15. (a) On or before the beginning of each school year, the governing board shall distribute to each employee a summary of the Educators Liability Trust Fund, as provided in Section 16-22-4.1, Code of Alabama 1975, and a summary of Section 36-1-12, Code of Alabama 1975, relating to teacher immunity.

(b) The Department of Finance shall annually prepare and provide to the department, and the department shall distribute to each governing board, sufficient copies of the summary for distribution to employees. The summary shall include all of the following:

(1) A statement that the Educators Liability Trust Fund provides sufficient coverage in the event a claim is made or a suit is filed against an employee based on the performance of his or her job duties.

(2) A statement of the policy limits.

(3) A statement relating to teacher immunity under Section 36-1-12, Code of Alabama 1975.

(4) Any other information determined by the department to be necessary to inform employees of the purpose and benefits of the Educators Liability Trust Fund.

Section 16. (a) Commencing on the effective date of this act, upon initial employment by a governing board, a teacher shall be compensated pursuant to this act.

(b) A teacher who has attained tenured status on or before the effective date of this act under the Students First Act of 2011, Chapter 24C, Title 16, Code of Alabama 1975, shall continue to be subject to the terms and provisions of that act and shall be compensated pursuant to the State Minimum Salary Schedule unless and until he or she provides written notice of intent to be compensated pursuant to this act to the chief executive officer and the governing board. Notice shall be submitted at least 60 calendar days before the first day of the next school year and compensation pursuant to this act shall begin for the teacher on the first day of the ensuing school year.

Section 17. Tenure is not available for support personnel hired for the first time to a position in a school or school district after May 1, 2017.

Section 18. All employment actions and proceedings that have been initiated under either the Teacher Tenure Law or the Fair Dismissal Act that are pending on the effective date of this act shall be completed under the statutory procedures that were in effect on the date the action or proceeding was commenced. No teacher, principal, assistant principal, or instructional personnel may elect to be compensated pursuant to this act while an employment action or proceeding initiated under the Teacher Tenure Law or the Fair Dismissal Act is pending.

Section 19. (a) For the purposes of this section, the following terms shall have the following meanings:

(1) CENTER. The Alabama Longitudinal Data System Center.

(2) DEIDENTIFIED DATA. A data set in which parent and student identity information, including the state assigned student identifier and student Social Security number, has been removed.

(3) LDS CENTER COMMISSION. The governing board of the Alabama Longitudinal Data System Center.

(4) STATE ASSIGNED STUDENT IDENTIFIER or SASID. The identifier assigned to each student by a governing board based on the identifier system developed by the department.

(5) STUDENT DATA. Data relating to student performance.

a. The term includes all of the following:

1. Student performance including, but not limited to, state and national assessments.

2. Course taking and completion.
3. Grade point average.
4. Remediation.
5. Retention.
6. Degree, diploma, or credential attainment.
7. Enrollment.
8. Demographic data.
- b. The term does not include any of the following:
 1. Juvenile delinquency records.
 2. Criminal and juvenile records.
 3. Medical and health records.
 4. Discipline records.

(6) WORKFORCE DATA. Data relating to all of the following:

- a. Employment status.
- b. Wage information.
- c. Geographic location of employment.
- d. Employer information.
- e. Field of employment.

(b)(1) The Alabama Longitudinal Data System shall be fully operational by May 1, 2017. All data obtained pursuant to this section shall be stored by the Alabama supercomputer system in a manner specifically authorized by the LDS Center Commission.

(2) The Alabama Longitudinal Data System is a statewide data system that contains individual level student data and workforce data from preK-12 and college levels of education and the state's workforce, and allows users of the center to do all of the following:

a. Effectively organize, manage, disaggregate, and analyze individual student data.

b. Examine student progress and outcomes over time, including preparation of students for their next level of education or the workforce.

(3) The linkage of student data and workforce data for the purposes of the Alabama Longitudinal Data System shall be limited to no longer than five years from the date of latest attendance in any K-12 school or community college institution in the state.

(4) The purpose of the Alabama Longitudinal Data System is to do all of the following:

a. Generate timely and accurate information about student performance that can be used to improve the education system of the state and guide decision makers at all levels.

b. Facilitate and enable the linkage of student data and workforce data.

(c)(1) There is established an Alabama Longitudinal Data System Center.

(2) The center is an independent unit within state government.

(3) The organizational placement and location of the center shall be determined by the LDS Center Commission.

(4)a. The head of the center is the executive director, who shall be appointed by the LDS Center Commission.

b. The center may employ additional staff as necessary to carry out the center's functions as provided in the state budget.

(5) The center shall be considered an authorized representative of the State Department of Education under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(6) The center shall perform all of the following functions and duties:

a. Issue regulations governing the development and implementation of local evaluation systems. The regulations shall include, but not be limited to, all of the following:

1. Processes and requirements to determine the teacher of record for purposes of assigning student achievement scores to a teacher in evaluating the performance of the teacher. In considering this definition, the department shall consider all of the following: The minimum threshold of instruction time for a subject or course that qualifies under this categorization; the unit of measure for quantifying instruction time, days, or percentage of time; team teaching, or multiple teachers tracked as instructing a student for a subject or course; and the implications of virtual learning environments with this categorization.

2. Processes to verify teachers, their students, and their assignments.

3. Standards for rating levels to be assigned to teachers.

4. Processes and requirements for student growth methods to be used in measuring student achievement growth for purposes of teacher evaluation.

5. The observation tool or tools to be used when conducting teacher and principal or assistant principal evaluations.

6. Minimum training requirements for evaluators.

b. Serve as a central repository of student data and workforce data in the Alabama Longitudinal Data System, including data sets provided by:

1. The State Department of Education.

2. Local educational agencies.

3. The Alabama Community College System.

4. The Alabama Department of Commerce.

5. The Alabama Department of Labor.

6. The Department of Early Childhood Education.

7. The Alabama Commission on Higher Education.

8. Four-year public and independent colleges and universities operating in the state.

9. The State Department of Veteran Affairs.

10. The Alabama Industrial Development and Training Institute.

11. The federal Employment Data Exchange System.

12. The regional workforce councils of Alabama.

c. Oversee and maintain the warehouse of the Alabama Longitudinal Data System data sets.

d. Ensure routine and ongoing compliance with the federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies, including:

1. The required use of deidentified data in data research and reporting.

2. The required disposition of information that is no longer needed.

3. Providing data security, including the capacity for audit trails.

4. Providing for performance of regular audits for compliance with data privacy and security standards.

5. Implementing guidelines and policies that prevent the reporting of other potentially identifying data.

6. Conduct research using timely and accurate student data and workforce data to improve the education system of the state and guide decision-making by state and local governments, educational agencies, institutions, teachers, and other education professionals.

e. Conduct research relating to all of the following:

1. The impact of state and federal education programs.

2. The performance of educator preparation programs.

3. Best practices regarding classroom instruction, education programs and curriculum, and segment alignment.

f. Fulfill information and data requests to facilitate state and federal education reporting with existing state agencies as appropriate.

g. Fulfill approved public information requests.

h. Any private institution of higher education, private school, parochial school, or other organization, upon approval of the governing board of the institution, may provide education and workforce data to the center.

1. The providing entity shall certify that the data provided to the center is accurate.

2. Each providing entity shall retain ownership of the data provided to the center.

(7)a. Direct access to data in the Alabama Longitudinal Data System shall be restricted to authorized staff of the center.

b. The center may only use deidentified data in the analysis, research, and reporting conducted by the center.

c. The center may only use aggregate data in the release of data in reports and in response to data requests.

d. Data that may be identifiable based on the size or uniqueness of the population under consideration may not be reported in any form by the center.

e. The center may not release information that may not be disclosed under the federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies.

f. Deidentified information may be used in analyses and research activities by the center and qualified third parties who satisfy criteria of the governing board established to comply with the Family Educational Rights and Privacy Act.

(8) The center may receive funding from the following sources:

a. State appropriations.

b. Grants or other assistance from local education agencies and institutions of higher education.

c. Federal grants.

d. User fees.

e. Any other grants or contributions from public or private entities received by the center.

(d)(1) There is established a governing board of the center.

(2) The LDS Center Commission shall include all of the following members:

a. Two members appointed by the Governor, at least one of which has expertise in large data systems and data security.

b. One member appointed by the Lieutenant Governor.

c. One member appointed by the President Pro Tempore of the Senate.

d. One member appointed by the Speaker of the House of Representatives.

e. The Commissioner of the Alabama Department of Labor, or his or her designee.

f. The Secretary of the Alabama Department of Commerce, or his or her designee.

g. The State Superintendent of Education, or his or her designee.

h. The Chancellor of the Alabama Community College System, or his or her designee.

i. The Secretary of Information Technology.

j. The Governor's Education Policy Advisor.

k. The Chair of the Senate Finance and Taxation Education Committee.

l. The Chair of the House Ways and Means Education Committee.

m. A representative of the State Board of Education, as selected by the board.

n. A representative of the Alabama Community College System Board of Trustees, as selected by the board.

o. The President of the Alabama Council of College and University Faculty Presidents, or his or her designee.

p. The President of the Alabama Association of Independent Colleges and Universities, or his or her designee.

q. The Executive Director of the Alabama Commission on Higher Education, or his or her designee.

r. The Secretary of the Department of Early Childhood Education, or his or her designee.

s. The State Service Commissioner of the State Department of Veteran Affairs, or his or her designee.

t. A representative of local superintendents of education in the state, as appointed by the Governor.

(3) The membership of the LDS Center Commission shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Each appointing authority shall strive to select individuals that collectively possess strong experience and expertise in management and finance, public school leadership, assessment, curriculum and instruction, and public education law. Each member of the LDS Center Commission shall have demonstrated understanding of and commitment to public education.

(4) The initial appointments to the LDS Center Commission shall be made no later than 45 days after the effective date of this act. The initial appointee of the

Lieutenant Governor and one initial appointee of the Governor shall serve a term of one year, one initial appointee of the Governor shall serve a term of two years, and the initial appointees of the Speaker of the House of Representatives and President Pro Tempore of the Senate shall serve initial terms of three years. Thereafter, all appointees shall serve three-year terms of office. All appointments shall be eligible for reappointment as determined by the appointing authority, not to exceed a total of six years of service, unless the member was initially appointed to serve a one-year term of office. If the initial term of office of an appointee was one year, he or she may serve a total of seven years of service on the LDS Center Commission.

(5) A member of the LDS Center Commission may be removed for failure to perform the duties of the appointment. Whenever a vacancy on the LDS Center Commission exists, the appointing authority, within 60 days after the vacancy occurs, shall appoint a member for the remaining portion of the term in the same manner as the original appointment was made.

(6) The LDS Center Commission shall hold its initial meeting within 30 days after appointment of the fifth member. At its initial meeting and the first meeting each year, the members of the LDS Center Commission shall elect a chair, a vice chair, and a secretary, each of whom shall serve in that position for one year. The vice chair shall act in the place of the chair in the absence or disability of the chair. The vice chair and secretary shall not serve more than two consecutive terms. The LDS Center Commission shall meet at such times as designated by the LDS Center Commission at a

place deemed necessary or convenient, but the chair shall call a meeting once a year. The chair may also call a special meeting at any time the chair deems it advisable or necessary.

(7) A majority of the members of the LDS Center Commission shall constitute a quorum, and a quorum shall be necessary to transact business. Actions of the LDS Center Commission shall be by a majority vote of the LDS Center Commission. The LDS Center Commission, in all respects, shall comply with the Alabama Open Meetings Act and state record laws. Notwithstanding the preceding sentence, members of the LDS Center Commission may participate in a meeting of the LDS Center Commission by means of telephone conference, video conference, or similar communications equipment by means of which all persons participating in the meeting may hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for all purposes, including the establishment of a quorum. Telephone or video conference or similar communications equipment shall also allow members of the public the opportunity to simultaneously listen to or observe meetings of the LDS Center Commission.

(8) The LDS Center Commission shall do all of the following:

a. Establish the organizational placement and location of the center after seeking and evaluating proposals from interested entities based on criteria that shall include all of the following:

1. The ability of the entity to support the operation of a large data system.

2. Strength of funding support.

3. Expertise in data security.

b. Develop an implementation plan to phase in the establishment and operation of the Alabama Longitudinal Data System and the center.

c. Provide general oversight and direction to the center.

d. Approve the annual budget for the center.

e. Establish the policy and research agenda of the center.

f. Before the incorporation of any individual data in the Alabama Longitudinal Data System:

1. Create an inventory of the individual student data:

(i) Proposed to be maintained in the system; and

(ii) Required to be reported by state and federal education mandates.

2. Develop and implement policies to comply with the federal Family Educational Rights and Privacy Act and any other privacy measures, as required by law or the LDS Center Commission; and

3. Develop a detailed data security and safeguarding plan that includes all of the following:

(i) Authorized access and authentication for authorized access.

(ii) Privacy compliance standards.

(iii) Privacy and security audits.

(iv) Breach notification and procedures.

(v) Data retention and disposition policies.

g. Oversee routine and ongoing compliance with the federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies.

h. Ensure that any contracts that govern databases that are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance.

i. Designate a standard and compliance timeline for electronic transcripts that includes the use of SASID to ensure the uniform and efficient transfer of student data between local education agencies and institutions of higher education.

j. Review research requirements and set policies for the approval of data requests from state and local agencies, the Legislature, and the public.

(e)(1) The LDS Center Commission shall report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairs of the Senate Finance and Taxation Committee - General Fund, Senate Finance and Taxation Committee - Education, House Ways and Means Committee, General Fund, and House Ways and Means Committee, Education on or before the tenth day of each regular session.

(2) The report shall include all of the following:

a. An update on the implementation of the Alabama Longitudinal Data System and the activities of the center during the preceding year.

b. A list of all studies performed by the center during the reporting period.

c. A list of currently warehoused data that is determined to be no longer necessary to carry out the mission of the center.

d. Any proposed or planned expansion of data maintained in the database.

e. Any other recommendations made by the LDS Center Commission.

(f) The center shall adopt rules to implement this section pursuant to the Alabama Administrative Procedure Act.

(g)(1) Local education agencies, community colleges, and state agencies shall do all of the following:

a. Make every effort to comply with the data requirements and implementation schedule for the Alabama Longitudinal Data System as set forth by the LDS Center Commission.

b. Transfer student data and workforce data to the Alabama Longitudinal Data System in accordance with the data security and safeguarding plan developed pursuant to this section.

(2) Private institutions of higher education and private secondary schools may transfer student data and workforce data to the Alabama Longitudinal Data System in accordance with the data security and safeguarding plan developed pursuant to this section.

(h) Before the incorporation of any individual data in the Alabama Longitudinal Data System, the LDS Center Commission shall report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairs of the Senate Finance and Taxation

Committee - General Fund, Senate Finance and Taxation

Committee - Education, House Ways and Means Committee, General Fund, and House Ways and Means Committee, Education, on all of the following:

(1) The inventory of individual student data proposed to be maintained in the system.

(2) The policies of the center to comply with the federal Family Educational Rights and Privacy Act, and other privacy measures required by law or the LDS Center Commission.

(3) A data security and safeguarding plan for the center.

(i) The Legislature finds and declares that the state shall make every effort to seek federal funding to support the creation and establishment of the Alabama Longitudinal Data System and the Alabama Longitudinal Data System Center.

Section 20. Sections 16-24C-4 and 44-1-74 of the Code of Alabama 1975, are amended to read as follows:

"§16-24C-4.

"No action may be proposed or approved based upon personal or political reasons on the part of the employer, chief executive officer, or governing board. A teacher shall attain tenure, and a classified employee shall attain nonprobationary status as follows:

"(1) Except as otherwise provided by Section 16-23-3, a teacher who is not an employee of a two-year educational institution operated under the authority and control of the ~~Department of Postsecondary Education~~ Alabama Community

College System, shall attain tenure upon the completion of ~~three~~ five complete, consecutive school years of full-time employment as a teacher with the same employer unless the governing board approves and issues written notice of termination to the teacher on or before the last day of the teacher's ~~third~~ fifth consecutive, complete school year of employment. For purposes of this chapter, a probationary teacher whose employment or reemployment is effective prior to October 1 of the school year and who completes the school year shall be deemed to have served a complete school year. A teacher employed by a two-year educational institution operated under the authority and control of the ~~Department of Postsecondary Education~~ Alabama Community College System shall attain tenured status upon the completion of ~~six~~ 10 consecutive semesters, excluding summer terms, at the same two-year institution, unless the president issues notice of termination to the teacher on or before 15 days prior to the end of the ~~sixth~~ tenth consecutive semester of employment, excluding summer terms. No probationary teacher employed by a two-year educational institution operated under the authority and control of the ~~Department of Postsecondary Education~~ Alabama Community College System shall attain tenure during or at the completion of a summer term. For teachers who are required to hold a professional educator's certificate, time in service without such a certificate shall not be credited toward the attainment of tenure.

"(2) A probationary classified employee who is not an employee of a two-year educational institution operated under the authority and control of the ~~Department of~~

~~Postsecondary Education~~ Alabama Community College System attains nonprobationary status upon the completion of ~~three~~ five complete, consecutive school years of full-time employment with the same employer unless the governing body of the employer approves and issues written notice of termination to the employee on or before the fifteenth day of June immediately following the employee's ~~third~~ fifth consecutive complete school year of employment. In the first year of each legislative quadrennium, the written notice shall be provided on or before June 30. For purposes of this chapter, a probationary classified employee whose employment or reemployment is effective prior to October 1 of the school year and who completes the school year shall be deemed to have served a complete school year. A probationary classified employee of a two-year educational institution operated under the authority and control of the ~~Department of Postsecondary Education~~ Alabama Community College System shall attain nonprobationary status upon the completion of ~~36~~ 60 consecutive months of employment at the same two-year institution, unless the president issues notice of termination to the classified employee on or before 15 days prior to the end of the ~~thirty-sixth~~ sixtieth month of employment.

"(3) All of the following additional terms, conditions, and limitations apply to the attainment and retention of tenure or nonprobationary status:

"a. Only complete school years of service as defined in this chapter, including any leave that is credited to the employee for such purposes under board policy or applicable

law, may be credited to the attainment of tenure or nonprobationary status.

"b. Neither tenure nor nonprobationary status may be attained as a chief executive officer, a chief school financial officer, as a president or vice president of a two-year educational institution operated under the authority and control of the ~~Department of Postsecondary Education~~ Alabama Community College System, or in or by virtue of employment in temporary, part-time, substitute, summer school, occasional, seasonal, supplemental, irregular, or like forms of employment, or in positions that are created to serve experimental, pilot, temporary, or like special programs, projects, or purposes, the funding and duration of which are finite.

"c. Except as expressly provided to the contrary elsewhere in this chapter, neither tenure nor nonprobationary status in this chapter creates or confers any enforceable right or protected interest in or to a specific position, rank, work site or location, assignment, title, or rate of compensation within those categories of employment.

"d. Service performed as a teacher may not be converted to, recognized, or otherwise credited to the employee for the purpose of attaining nonprobationary status as a classified employee. Service performed in the capacity of a classified employee may not be converted to, recognized, or otherwise credited to the employee for the purpose of attaining tenure as a teacher, whether or not the classified employee holds a certificate issued by the State Department of Education.

"e. Neither tenured status nor time in probationary service shall be transferable from one employer subject to this chapter to another such employer, except that employees whose employer changes by virtue of annexation, school district formation, consolidation, or a similar reorganization over which the employee has no control shall retain tenure or nonprobationary status and service credit attained by virtue of employment with the predecessor employer.

"§44-1-74.

"As of October 1, 1983, all personnel who have been employed by the department of youth services for at least six months shall remain in their respective jobs and shall be considered to meet all requirements of the department in terms of training and experience; but nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law. The employment of any new teaching personnel after ~~October 1, 1983~~ the effective date of the act amending this section, shall be on a probationary or nontenured status with the expectation of attaining tenure under the state's tenure law after ~~three~~ five consecutive years of service and reemployment for the ~~fourth~~ sixth year. The employment of nonteaching personnel after October 1, 1983, shall continue to be under the provisions and protection of the state merit system."

Section 21. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.